

REMARKS

Reconsideration of the present application in view of the above amendments and the following remarks is respectfully requested.

Claims 1-22 were pending. Claim 22 has been canceled. Accordingly, claims 1-21 are pending.

Claim 16 has been amended to incorporate the feature in original claim 22. Claim 21 has been amended to enter minor edits in view of the amendment to claim 16, to which claim 21 refers. No new matter has been added by way of the above Amendment. These amendments have been made without prejudice to future prosecution of original claims in a related application or acquiescing to the objections in the International Preliminary Examination Report (IPER) of the PCT application of which the present application is the U.S. national phase application, which are referred to in the Restriction Requirement.

In response to the Restriction Requirement, Applicants elect, with traverse (as discussed in detail below), Group I, claims 1-15, drawn to processes for isolating nucleic acid. In addition, Applicants further elect a process for isolating DNA and a magnetic solid phase.

Claims that read on the elected invention and species are: claims 1-8, 11 and 13-15.

Applicants respectfully traverse the Restriction Requirement with respect to the invention election. Applicants submit that the novel and inventive feature that links the method and kit claims together is the use of NH_4^+ or NH_3 in combination with a chaotrope and a nucleic acid binding solid phase in nucleic acid isolation. It has been found by the inventors of the present application that using NH_4^+ or NH_3 in combination with a chaotrope and a nucleic acid binding solid phase increases the yield of isolated nucleic acid.

The above-noted feature is not taught or suggested by the two cited references, either alone or in combination. More specifically, the IPER referred to in the Restriction Requirement acknowledges that D1 (US 5,234,809) discloses a procedure to isolate DNA from biological samples using a chaotropic agent together with silica based nucleic acid binding solid phase, but there is no teaching in the available prior art that the additional presence of NH_4^+ or NH_3 in the process of D1 would give an increased yield of nucleic acid. In addition, D2 (EP 0

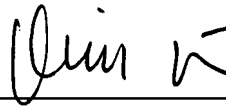
969 090 A1) relates to a method for separating and/or isolating circular nucleic acids from a mixture having different species of nucleic acids other than circular nucleic acids. This reference fails to teach or suggest the use of NH_4^+ or NH_3 in combination with a chaotrope and a nucleic acid binding solid phase in nucleic acid isolation.

In view of the above remarks, Applicants respectfully request that the restriction between Groups I and II be withdrawn.

The Director is hereby authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Respectfully submitted,

SEED Intellectual Property Law Group PLLC



Qing Lin, Ph.D.
Registration No. 53,937

QXL:kw

701 Fifth Avenue, Suite 5400
Seattle, Washington 98104-7092
Phone: (206) 622-4900
Fax: (206) 682-6031

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